

REMARKSArt rejections: General

The art rejections are respectfully traversed.

Since the references are many and/or complex, Applicant will confine his remarks to those portions of the references cited by the Examiner, except as otherwise indicated. Applicant makes no representation as to the contents of other portions of the references.

Any of the Examiner's rejections and/or points of argument not addressed would appear to be moot in view of the following. Nevertheless, Applicant reserves the right to respond to those rejections and arguments and to advance additional arguments at a later date. No arguments are waived and none of the Examiner's statements are conceded.

Art rejections: claims other than 12-13, 15-17, and 21

Claim 1 recites that — for at least part of the output stream — the real time and non-real time packet data each have a respective non-zero minimum bit rate and a combined bit rate less than a maximum value. Claim 1 further recites that the part of the output stream is a single time slot.

Against this recitation, the Examiner cites Härmäläinen. The Examiner appears to believe that fig. 3 of this reference shows a single time slot having both real time and non-real time packet data, each having a respective non-zero minimum bit rate less than a maximum value. Applicant respectfully submits that the Examiner mischaracterizes the reference.

Härmäläinen's figure 3 appears to be described in column 4. Applicant has reviewed this column and the figure; and finds that data are in separate frames from speech. The Examiner says that there is a single frame with data and speech, but Applicant is just not seeing that in the

language of column 4 or in the figure. The text refers to data frames and speech frames. Applicant accordingly does not believe that one of ordinary skill in the art would read this reference as teaching or suggesting data and speech in the same time slot, as claimed by Applicant.

The Examiner appears to equate a multiframe with a frame, and a frame with a time slot. Applicant respectfully submits that this interpretation twists the words out of their ordinary meaning in the art.

Applicant would like to note for the record that, at least according to some standards, a frame is defined as comprising more than one time slot, see e.g. claims 16 and 27; so that, even if some as yet unidentified reference did show speech and data within the same frame, claim 1 would not necessarily be rendered unpatentable.

The Examiner's attention is directed to the definition of time slot submitted on March 4, 2005. This submission explains that the definition of time slot is unique within any given standard, but may differ from standard to standard. The claims must be interpreted within the terminology of the standard applicable to any accused device or method. New claims 32 to 36 emphasize this point.

Claims 7, 14, 22, and 25-31 also contain the single time slot limitation. Arguments analogous to those presented for claim 1 are therefore applicable to those claims.

Most of the remaining claims depend from one of the claims dealt with above, except for 12-13, 15-17, and 21, which will now be discussed.

Claims 12 and 13

Claim 12 recites allocating at least first, second, and third types of data to a single output data stream. At least the first type of data is real-time data. At least the third type of data is non-real time packet data. The third type of data is added when the data rate of the first and/or second type of data is less than an expected capacity of a transmission channel. The single output stream is transmitted on a single, multiple-mode channel.

The Examiner states that the limitations of claim 12 are obvious. The Examiner's statement grows out of the Examiner's own thinking based on impermissible hindsight in view of Applicant's disclosure. Applicant respectfully submits that this is improper.

In making this rejection, the Examiner also mischaracterizes Hämäläinen as relating to a computer, when in fact it relates to a mobile communications system, which would not ordinarily include video.

Claim 13 further recites that the first type of data is video and the second type of data is voice. Hämäläinen only relates to transmission of speech and data. The Examiner points to no teaching or suggestion in the reference that video is also possible.

Applicant accordingly respectfully submits that the Examiner has failed to make a *prima facie* case of obviousness against these claims.

Claim 15

The Examiner groups claim 15 together with claim 27, even though their limitations are different. Applicant respectfully submits that this is improper.

Claim 15 recites that "the" header indicates both packet and speech data being in a single dual mode channel. By contrast, the portions of Hämmäläinen referred to by the Examiner show separate headers for speech frames and data frames.

The Examiner says that the header D-ID indicates both the packet data and speech data being in a single dual mode channel, because the packet data can be in the channel when the speech data is absent. However, Applicant finds no teaching or suggestion in the reference of an indication in the header that both are present. Perhaps there may be data present when there is no speech, but there might also not be, depending on whether there is any data to send. Accordingly, an absence of speech does not necessarily indicate a presence of packet data. Moreover, Applicant does not see that the reference teaches or suggests sending an empty speech frame to indicate the presence of packet data.

Applicant accordingly respectfully submits that the Examiner has failed to make a *prima facie* case of obviousness against claim 15.

Claim 16

Applicant respectfully submits that this rejection is improper *inter alia* because the Examiner says that a multiframe is a frame. Applicant respectfully disagrees. The claim specifically recites slots with a frame. A multiframe is several frames. Applicant accordingly respectfully submits that the Examiner has failed to make a *prima facie* case of obviousness against claim 16.

Claim 21 depends from 16.

Claim 17

The Examiner groups claim 17 together with claim 26, even though their limitations are different. Applicant respectfully submits that this is improper.

The claim recites a TDMA system. The claim further recites allocating real-time data and non-real-time data in variable proportions to a time frame.

In rejecting this claim, the Examiner reads a frame on multiple frames. Applicant respectfully submits that this is also improper.

Applicant accordingly respectfully submits that the Examiner has failed to make a *prima facie* case of obviousness against claim 17.

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Applicant respectfully submits that he has addressed each issue raised by the Examiner — except for any that were skipped as moot — and that the application is accordingly in condition for allowance. Allowance is therefore respectfully requested.

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Respectfully submitted,

By *A. E. Barschall*
Anne E. Barschall, Reg. No. 31,089
Tel. no. 914-332-1019
Fax no. 914-332-7719
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